IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1419 of 2006

Date of Decision: 24.9.2007

Sukhwinder Singh

..Petitioner.

Vs.

Labh Singh and another

..Respondents.

CORAM: HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Ms.Swati Gupta, Advocate for the petitioner.

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HEMANT GUPTA, J.

The defendant is in revision aggrieved against the order passed by the first Appellate Court whereby the parties were directed to maintain status quo regarding irrigation of the land of the plaintiff from the tube-well bearing account No.YA-322 of 7-1/2 horse power, till the disposal of the main suit.

The plaintiff-respondents vide sale deed dated 22.4.1999 purchased land measuring 10 kanals along with electric motor of 5 HP from Gurnam Singh. The plaintiff filed suit for injunction claiming a restraint order from debarring the plaintiff from using the irrigation facilities from the power connection installed in the land. It was pointed out that earlier the connection was of 5 HP which has since been upgraded to 7- 1/2 HP.

The defendant-petitioner is none else but the son of Gurnam Singh who has allegedly purchased land measuring 8 kanals along with a share in motor connection.

It is the case of the petitioner that 7-1/2 BHP motor is in fact a separate connection from the electric motor of 5 BHP which was referred to

in the sale deed executed in favour of the plaintiff-respondent.

The question whether the electric motor, the reference of which was made in the sale deed, is separate or not, cannot be examined at this stage of the proceedings. The fact remains that the plaintiff was granted facility of irrigation with electric motor of 5 HP. Such a right of irrigation granted to the plaintiff, cannot be taken away by the defendants. Therefore, I do not find any illegality or irregularity in the order passed by learned first Appellate Court. The plaintiff shall be entitled to use water from electric connection of 5 HP or any other electric connection in lieu of the said connection, during the pendency of the present suit.

With the said observation, the present petition stands disposed of.

(Hemant Gupta)
Judge

24.9.2007
Meenu